

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****214****FAO-10557-2014 (O&M)****Date of decision: 21.04.2025****Amarjit Kaur and others****...Appellant(s)****Vs.****Jagjit Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Harkirat Kaur, Advocate for
Mr. Deepak Arora, Advocate for the appellants.

Mr. Sandeep Suri, Advocate for
respondent No.3- National Insurance Co. Ltd.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants No. 1, 3 and 4 (respectively being the widow, daughter and son of the deceased Kulwant Singh), seeking enhancement of compensation of Rs.9,89,200/- awarded along with interest @ 7.5% per annum by the learned Motor Accident Claims Tribunal (Adhoc), Fast Track Court, Gurdaspur (hereinafter referred to as 'the Tribunal') vide Award dated 18.09.2014 passed in MACT Case No. 30 dated 23.05.2012 filed by the claimants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act').

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and evidence adduced before it, concluded that the deceased Kulwant Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 04.02.2012 at about 1:30 a.m. due to the rash and negligent driving of a Truck bearing registration No. PB-08-BE-6994 (hereinafter referred to as 'the offending vehicle') being driven



by respondent No.1; and owned by respondent No.2. Respondent No.3 herein is the insurance company of the vehicle No. PB-05-G-9761, which was being driven by the deceased Kulwant Singh at the time of accident. Before the learned Tribunal, the claimants had stated that the name and address of the insurance company with which the offending vehicle was insured, will be disclosed by the owner/respondent No.2 after his service. However, respondent no.2 failed to appear and was proceeded against ex parte.

3. Learned counsel for the appellants/claimants seeks enhancement of compensation only on the ground that no addition has been made by way of future prospects. It is submitted that the deceased was a Truck driver and was earning Rs.25,000/- p.m. On the date of accident, the deceased was 53 years of age. As such, learned Tribunal ought to have made an addition of 25% towards future prospects. However, the same has not been done. As such, impugned Award is not in accordance with law. It is accordingly prayed that the present appeal be allowed, and impugned Award be modified and compensation awarded to the claimants be enhanced.

4. Learned counsel for respondent No. 3 submits that nothing is liable to be paid by respondent No. 3 as it was not the insurer of the offending vehicle; rather only the insurer of vehicle being driven by the deceased at the time of the accident. Vide the impugned Award liability has been correctly fixed upon respondents no.1 and 2/Driver and owner, respectively.



5. No other argument is raised on behalf of the parties.

6. I have heard learned counsel for the parties and perused the case file in great detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellants.

7. It is relevant to note that as per the testimony of respondent No.1/RW1, the deceased was driving on the wrong side of the road. It has been deposed by RW1 that on seeing the deceased driving on the road, RW1 had blown the horn of offending vehicle, yet truck of the deceased hit into the offending vehicle which resulted in injuries not only to the deceased but also to respondent No.1. As such, deceased was taken to the hospital with multiple injuries on 04.02.2012 to which he had succumbed on 21.02.2012.

8. Perusal of the record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that the deceased was a Truck driver and earning Rs.25,000/- p.m. However, it was admitted by appellant No.1/widow/ CW1 in her cross-examination that she had no proof regarding income of the deceased. As such, learned Tribunal had assessed the income of the deceased by approximation as Rs.7,000/- p.m. Age of the deceased was determined to be 53 years at the time of accident on the basis of testimony of widow CW1. As such, multiplier of 11 was also correctly applied. However, as the claimants were 4 in number therefore, deduction of 1/4th ought to have been made towards personal expenses, but learned Tribunal has made a deduction of 1/5th towards personal expenses. Thus, dependency was calculated to be Rs.7,000 – Rs.1,400



(1/5th deduction) = Rs.5,600/-. Annual income = Rs.5600 x 12 =Rs.67,200/- x 11 = Rs.7,39,200/-. Under the conventional heads learned Tribunal has awarded Rs.1 lac towards love and affection; Rs. 1 lac as loss of consortium and 'future income'; and Rs.50,000/- towards transportation, funeral expenses and costs of litigation; thus, granting total compensation of Rs.9,89,200/-.

9. From the above facts, it is clear that an excessive amount has already been granted to the claimants under the conventional heads. It is established position in law that an amount of Rs.40,000/- is admissible towards consortium/loss of love and affection; whereas in the present case, a sum of Rs. 2 lacs was granted under these heads. Moreover, an excessive amount of Rs.50,000/- has also been granted towards transportation, funeral expenses and cost of litigation. It is also not denied that deduction of 1/4th should have been made; whereas deduction of 1/5th has been made. Moreover, amount has been granted towards 'future income' as well. Therefore, it is misleading for the appellants to submit that 'nothing' has been granted towards future prospects.

10. In these circumstances, reference may be made to a judgment of the Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others"**, where it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.



11. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in "**The Managing Director, Divisional Controller Versus Alikutty and Others**" Law Finder Doc Id # **1885188**. Relevant para 18 of the said judgment is reproduced below:-

*"18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straitjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards".*

12. Above said view has been reiterated by the Kerala High Court in "**Reliance General Insurance Company Limited Vs. Adila and Others**", Law Finder Doc ID # **1921609**, paras 16 and 17 of which read as under:-

"16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.

*17. In **New India Assurance Co., Ltd v. Vineesh.J[2018 (3) SCC 619]**, the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent."*



- 13. Learned counsel for the appellants is unable to controvert or dispute the above said factual and legal position.
- 14. As such, the present appeal is **dismissed**.
- 15. Pending application(s) if any also stand(s) disposed of.

21.04.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No